Mr. K. M. Ibrahim *(Cranganur).*—Then let this stage be over.

Mr. President.—The question is that the Bill be read in Council.

Motion put and negatived.

Mr. K. M. Ibrahim *(Cranganur).*—A poll, Sir.

POLL.

Ayes.	Noes.
1. Mr. K. Ayyappan.	1. Mr. K. P. Kannan Nayar.
2. Mr. T. K. Nayar.	2. Mr. K. Achyuta Menon.
3. Mr. A. Eachara Menon.	3. Mr. P. J. George.
4. Mr. V. K. Krishnankutty.	4. Mr. Thomas Manjuran.
5. Mr. K. M. Kunhi Moideen.	5. Rao Sahib I. N. Menon.
6. Mr. K. M. Ibrahim.	6. Rao Sahib M. Narayana Menon.
7. Mr. K. S. Panickar.	7. Mr. T. Narayana Menon.
8. Mr. P. Kumaran Ezhuthassan.	8. Dr. D. Raghavendra Rao.
9. Mr. A. Sivarama Menon.	9. Captain A. R. Poduval.
10. Dr. A. R. Menon.	10. Rama Varmha Tampuran.
11. Mr. A. V. Moothedan	11. Mr. V. K. Aravindaksha Menon.
	12. Mr. K. Narayana Menon.
	13. Mr. K. Krishna Warriar.
	14. Mr. C. S. Viswanatha Ayyar.
	15. Mr. K. M. Subramania Ayyar.

The motion was, therefore, lost.

The Cochin Debt Conciliation Act Amendment Bill.

Mr. A. V. Moothedan *(Chalakkudi).*—I beg to move for the introduction of the Cochin Debt Conciliation Act Amendment Bill. The provisions of this Bill in the form of a cut motion, were considered by the House during the last budget session and the House was pleased to pass the cut motion. But the Government rejected it on the ground that as the law stood there was no scope for accepting this cut motion without amending the law. Therefore I have come with this amendment Bill. This Bill has been before the public for more than three months and I think the public know the provisions of this Bill. The object of this Bill is to obviate one difficulty experienced by the Board. The great handicap to the amicable

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settlement of debts is that there is no cash for payment to the creditors. If there is cash it is possible to effect an amicable settlement very easily. In towns it is possible to sell the property but in the rural areas very great difficulty is felt for selling properties. There is nobody to purchase the properties for a decent price. Therefore for the purpose of raising cash there is no other scope except the Land Mortgage Bank, and we have allowed to the Bank a debenture to the extent of 20 lakhs of rupees. The debtor can apply to the Board and easily obtain money and with that money the creditors can be paid. So if cash is available it is very easy to conciliate the debts. The most important item is cash and if my suggestion is accepted it will provide cash. I say that it is the view of very many veteran economists that redemption of debts should be effected through the Land Mortgage Bank. If any authorities are required, I can give a lot of them. I do not think that I need tire the House by quoting authorities. In this connection I may be permitted to read the Statement of Objects and Reasons accompanying the Bill. It is to this effect:—

"For giving relief to the debtors in British India, several schemes are suggested today. But the scheme which has received the widest support is the one which was considered at the 22nd conference of the Madras Provincial Co-operative Union, held at Madras recently, under the Presidentship of Dr. P.J. Thomas, M.L.C. (Madras), a veteran economist. (He is a conservative economist). On the whole it seems best to manage the work of debt redemption through Land Mortgage Banks and give them all the facilities for undertaking it. In the U. S. A. Government did the work of refinancing through the Land Banks, although these banks were then in dire financial straits. Our Land Mortgage Banks on the other hand, occupy a much better position today and can be made to shoulder such burdens if actively supported by the State". Considering the strong position of the Cochin Land Mortgage Bank and the patronage extended to it by Government, I am sure that our Land Mortgage Bank will be in a position to take up the responsibility of debt redemption. But in the case of faciliting debt redemption of person who have applied to the Debt Conciliation Board, there should be co-ordination of work between the Land Mortgage Bank and the Debt Conciliation Board. The new section 9-A is introduced for this purpose.

Again as section 17 now stands a petition will be dismissed after one year for no fault of the debtor. To avoid this hardship an amendment of this section is proposed.

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My scheme is this. After a debtor has applied to the Debt Conciliation Board to have his debts conciliated, he should apply to the Land Mortgage Bank also for advancing money on the security of the property. The Bank will make the necessary investigations and inquiries as to how much money could be advanced. At the same time the various creditors also would be preparing statements as to their claims. Then the money which the Bank is prepared to advance will be handed over to the Board and an agreement with the various creditors will be effected. In this case the creditors without any difficulty and without litigation get the money. They get ready cash. Many creditors say "I am prepared to scale down the debts if I am given liquid cash". Wherefrom are we to get the money unless it is advanced by the Land Mortgage Bank or some such institution. The Madras Government have decided to advance 50 lakhs of rupees to their ryots and it is proposed to distribute those amounts through the Revenue Department. The better scheme will be the Land Mortgage Bank should be entrusted with this amount and it should distribute it among the debtors. I think this idea of scaling down debts is not a very new idea. The House need not be surprised at all.

In the Gospel of St. Luke, Chapter VII, verses 41 & 42, it is written as follows:—

> "There was a certain creditor which had two debtors: the one owed five hundred pence and the other fifty.
>
> "And when they had nothing to pay, he frakly forgave them both".

As it will be seen that even before two thousand years ago, cases of scaling down debts and forgiving debtors were quite common and it is only fitting and proper that we should give some relief to the poor debtors.

The House rose for lunch at 1-5 p. m. and reassembled at 2-30 p. m. with the Deputy President in the Chair.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Sir, the Government regret their inability to support or accept this Bill. The principles underlying this Amendment Bill are, on examination, found to be directly against the voluntary basis on which the Act is based. As the Hon'ble Members are aware, the provisions contained in the existing Cochin Debt Conciliation Act are mainly, if not exclusively, of a voluntary nature. When a certain percentage of debtors or creditors consent or agree to the conciliation of the debtors' debts on a particular basis, the Debt Conciliation Board is given power of

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getting that agreement translated into a written agreement and issue him certain certificates. On the issue of such certificates certain effects which are no doubt of a more or less coercieve nature would follow so far as the recalcitrant creditors are concerned. That is the extent to which the law goes now. The Hon'ble Member who drew this Bill now tries to introduce rather two important innovations. The first is with regard to the discretion that is now vested in the creditors and exercised through the Debt Conciliation Board. Instead of the board getting the agreement of the creditors' translated into a voluntary agreement and thereupon issue a certificate, the Hon'ble Member in effect says that whatever amount the Land Mortgage Bank authorities decide to give on the strength of the security of the landed properties of the debtor should be accepted as the basis for settlement. In other words suppose a debtor is indebted to the extent of ten thousand rupees and his assets are worth only 2,000 rupees.

Mr. A. V. Moothedan *(Chalakkudi).*—Is it not imaginary? No creditor will advance money to such a debtor.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Then let us make it 5,000. I think this will satisfy the Hon'ble Member for Chalakkudi. Now according to this Bill the matter is sent to the bank and they in the interests of the business which they are running decide to advance only some three thousand rupees. My Hon'ble friend's Bill is to the effect that the three thousand rupees which the Land Mortgage Bank may be advancing should be taken as the basis of settlement by the Board. That is to say in other words the opinion or the decision of the Land Mortgage Bank authorities should be made to prevail in a case where conciliation is sought and where the debtor has got some properties. That I submit is not quite acceptable to the Government and I believe many of the Hon'ble Members will agree that the Government's position is thoroughly justifiable. The idea underlying conciliation is an agreement resulting from a free exchange of ideas and resulting eventually in a former agreement on the lines of the agreement reached at by the creditors. Now that is more or less a voluntary act. You are now introducing expropriatory measures and the only method that the Government could adopt. Now that this new basis is suggested the Government have to consider whether the adoption of such a course would not change the basis of the existing Act altogether. Instead of an agreement by arrangements it is meant by this Bill that the assessment by the Land Mortgage Bank should be made the basis of a deci-

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sion by the Debt Conciliation Board. It is obvious that it would not be within the spirit of the Act to invest an extraneous body like the Land Mortgage Bank whose concern will be to safeguard their interest — of course the bank will be doing the little that is possible by them to the agriculturist — with such things. The decision of such a body cannot and may not be advantageous to the creditors themselves. When that is so how can the Government countenance and coerce all the creditors by imposing the opinion of this body on them? That is the reason why the Government are opposing this measure. Government, while they are anxious to help the debtors, are also equally anxious to see that fair play is given to all parties including of course the creditors. We have also to consider that unlike that of extra-Cochin territories, the vast bulk of the creditors are agriculturists themselves. Now in some of the States where expropriatory measures are introduced it is well known that the creditors are not agriculturists but professional money-lenders. Here unlike those states the vast bulk of the creditors are agriculturists themselves.

Mr. A. V. Moothedan *(Chalakkudi)*.—One man's food may be another man's poison.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—We have already gone to the extent to which we can. The House knows what the Government is doing. I believe my Hon'ble friend the Member of Chalakkudi belongs to that class of agriculturists also although he may be a lawyer.

Mr. A. V. Moothedan *(Chalakkudi)*.—I am the son of an agriculturist.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—He has not done for the problamatic benefit of another portion of the agriculturists of the State. The Government are anxious to safeguard the interests of all the agriculturists of the State but they cannot be a party to a piece of legislation like this. What is purely a voluntary basis cannot be translated into a coerceive one.

Then I come to the second point. This point is even more objectionable. Once when the limit of one year is prescribed for a debtor to get his application rushed through the Board, the Hon'ble Members say that it works hardship with him. The Hon'ble Member wants to make the provision with regard to the period very elastic. That is to say when the application before a Board is pending and until it is disposed of no action

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in court should be taken. Now, Sir, I do not think that this will serve any useful purpose. It is well known and I am sure that the House also knows that after the introduction of the Debt Conciliation Act there has been a rush of the people to the Board.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—That shows its popularity.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—It may show its popularity and the popularity may be due to several reasons. The popularity may be due to the fact that the debtor gets some more time during which he can eat from the property and somehow or other prevent the creditor from getting anything.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—That is a most uncharitable construction you give.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—We have got the opinion of the Board.

Mr. A. V. Moothedan *(Chalakkudi).*—Have they not stated that great difficulty is felt for effecting conciliation for want of liquid cash?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—They have.

Now the Government do not want to stand by and see that this Debt Conciliation Act is grossly abused. Methods of putting off decision are not unknown and unscrupulous debtors may easily resort to any sort of thing by which they can do it. They will do it unless the period is definitely fixed. That is why this legislature fixed the period of one year as the ultimate limit of keeping an application pending in the Board. Now what has happened since that to change this period? This legislature after mature considerations fixed the period of one year.

Mr. A. V. Moothedan *(Chalakkudi).*—I suggested when the Bill was with the Select Committee that it may be changed to 24 months. But the Chairman of the Committee said that 12 months was sufficient and I agreed to it.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—It is only recently that we fixed the period at 12 months. It was then thought that this period was reasonable. What has happened since to say that it is not reasonable.

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Even in Civil Courts which are governed by the rigours of the Civil Procedure Code, methods of evasion are not unknown. As a matter of fact suits in which there are no important matters or where there are no points of contention are known to have been dragged on for years together by strategy by debtors. Before the Debt Conciliation Board such things can be easily repeated to the very great detriment of the creditors. The Debt Conciliation Board will be flooded with applications unless such a time limit is fixed. The Board will be flooded with applications and they will be put to utter confusion. They won't be able to turn out any tangible work and you cannot expect to get any benefit out of the Boards. Now I ask the Hon'ble Members whether they want the Act to be deteriorated into that condition. Now this one year is prescribed. I honestly say that during the period of one year an honest debtor will be able to get through his application. In these circumstances the Government cannot but oppose this measure which is altogether unnecessary and uncalled for.

* **Mr. P. Kumaran Ezhuthassan** *(Wadakkancheri).*— Mr. President, Sir, here is a measure before this House brought with a view to make the working of the Debt Conciliation Board and the benefits arising out of such a Board work with greater effectiveness as far as the debtor is concerned. That this is the purpose of the Bill is seen from the Statement of objects and reasons attached to the Bill. It is a two clauses Bill on both of which the Hon'ble the Government Advocate is seen to have raised his objections. On the first clause the Hon'ble Member's objection is that the very scheme, the very basis, of the Debt Conciliation Act is upset by a provision like the first provision which seeks to introduce a new section 9A to the Bill. That is the position of the Government Advocate. He elaborated that argument by saying that in the case of a debtor having 10,000 rupees of liability and having only 5,000 rupees worth of property and the Land Mortgage Bank under its rules being prepared to advance only 3,000 rupees on the security of the debtor's property and if 50 per cent of the creditors agree to accept the three thousand rupees that the Land Mortgage Bank will be prepared to advance and if the Board registers an agreement on the lines of that basis, then comes the upsetting of the very basis of the Act, viz., the changing of the voluntary basis into a compulsory basis. That I say was the argument of the learned Government Advocate. You will be pleased to find, Sir, that though in general there is the scheme and the basis of

* Speech not corrected by the Hon'ble Member.

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that scheme may be considered to be voluntary, still there is in it an element, a necessary element, a pardonable element of compulsion also. (Hear, hear). You will be pleased to find that in the existing Debt Conciliation Act, 10 months old, there is clause 14 wherein it is stated that "If the creditors to whom more than fifty per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement————————". The consequences are enumerated in the subsequent subsections. Does not the Government Advocate see the excusable and the necessary compulsion placed in the existing provision of the Act itself? If 50 per cent of the creditors come to an amicable settlement the other 50 per cent though they are not expressly bound by that agreement, are bound the same agreement. They will be in an awkward position. There may not be sufficient property to satisfy this 50 per cent. The fifty per cent of the creditors who have not joined the agreement will have only as much share as the other fifty per cent who have come to a settlement. They will have only as much the same ratio of property to be proceeded with as in the case of those who have agreed to the settlement. In other words suppose 51 per cent agree to the conciliation of the debts of a debtor. Then the remaining 49 per cent will only get the proportion of the property as the other. There is that element of compulsion in the existing Act. It was not intended that the Debt Conciliation Act is to work without that compulsion. It is idle to contend that by introducing provision number one the voluntary basis is converted into a compulsory basis. If it is so the existing law also contains it. What is sought by the first provision is only to make the working of the Debt Conciliation Act more effective in this way. Reference was made to the report of the Board that is now existing in support of the position of the Government on a certain point. The same report or another report made by the Board will also show that the most astounding difficulty that the Board is put to in effecting settlements is the difficulty to find cash. If actual cash is forthcoming the parties will be agreeable to compose their debts and accept an amount much less than the ratio of the amount if instead of money immovable property is set apart to the creditors. That such a report also has been submitted by the Debt Conciliation Board will not be denied by the Government and it is very easy to explain the reason behind it. Ordinarily we find that if a debtor who has to pay A Rs. 1000, if he offers him property which is generally valued at Rs. 1000 he may not be willing to accept it. If on the other hand in place of the immovable property which is valued at Rs. 1000 according to

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the then market rate he is given Rs. 800 in cash, the creditor would be prepared to accept this bag of money and perhaps give 50 rupees to the debtor. He will be even satisfied with Rs. 750 instead of properties worth Rs. 1000. That is the experience we have in the ordinary course of business that is transacted between debtors and creditors. I do not think that will be agreed to by the capitalist Members of this House. That is the everyday experience that we find and it is to achieve that end the proviso to the amending Act is introduced. Now when an application comes before the Board, the Board after examining the debtor on the various points mentioned in the existing Act before proceeding to settlement, a power is given to it to find out the exact amount that will be advanced by a competent authority like the Land Mortgage Bank upon the security of the immoveable property. With that amount in hand the Board sits and discusses the matter with the creditors and makes an amicable settlement. This is making a world of difference in improving the position of the debtors. Instead of giving property if liquid cash is given, it makes a difference. It is with that object that clause 1 is intended to be attached to the Act. The Government will also be pleased, as I am sure they will be pleased, to make some amendments in the Land Mortgage Bank Rules in indirectly inducing the authorities to make some slight reasonable changes in favour of the applicants before the Bank by increasing the percentage of the amount that would be advanced on the security of the immovable property. In case this is done then it will be to the benefit of the debtor as well as the creditor. This is the object of the first proviso and the attack on that proviso on the ground that it changes the scheme of the act is something which cannot hold water.

The second objection that the Government Advocate raised was that it proposes to extend the period of 12 months to something more than 12 months.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Indefinitely.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Not exactly indefinitely. Even if it is absolutely indefinite, that indefiniteness can be made alright by proper amendments being moved. The clause that is intended to be introduced here as section 17 of the Act reads:— "If no amicable settlement is arrived at under sub-section (1) of section 14, within

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twelve months from the date of the application under section 4 the Board shall dismiss the application and such dismissal shall be a bar to the presentation of any further application under section 4." If a settlement is not reached within twelve months the petition has to be dismissed even in cases where the Board finds a possibility of a future settlement. The extreme limit of twelve months is intended to be extended to such time within which the Land Mortgage Bank amount can be had for the use of the 50 per cent of persons who have agreed. It is with a view to see that that amount is made available that the time is sought to be extended. It is not indefinite. Such time as is necessary for valuing the property, for examining the property, etc. will have to be extended. There must be a provision in the law which empowers the Board to extend the time to such an extent that the object aimed at by the first proviso is achieved. That is the scheme. Therefore it is unwise to take proviso 2 independently and without having its proper bearing upon No. 1. When these two provisos are taken together I have not the least hesitation to say that the amending Act is one intended to benefit the debtor as well as the creditor. It benefits the debtor in as much as he gets all the advance and it benefits the creditor because in lieu of properties he gets liquid cash. That is the object with which it is brought. If there is any defect in the amending Act in any one of the provisions they may be amended. They may be brought into tune with the scheme of the existing law. If really the Government Advocate finds a touch of indefiniteness regarding the extension of the period, that may be brought within limits by sending the Bill to a Select Committee. That should be the attitude of the Government and not an attitude of hostility by opposing this Bill at this stage. I make an earnest appeal to all the non-official Members of this House to help for the passing of this motion. By passing this Bill now it helps the advancing of this Bill by two stages. If the same Hon'ble Member returns to the House, which I believe will be the event, then the same Hon'ble Member can continue with the Bill from the stage at which we have reached. If unfortunately he is not to be returned, then also I think the Standing Order, if it will be helpfully interpreted as has been the case this morning as far as the most controversial Bill is concerned, still other Members can continue and get over the first two stages. We can immediately proceed for the appointment of a Select Committee and get through the Bill. Therefore let it not be attacked on the ground that there is no purpose to be served by this motion being passed today, and hence it be lost.

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For these reasons I wholeheartedly support the motion before the House.

* **Mr. C. R. Iyyunni** *(Trichur South).*—There was an illustration which was referred to by the Government Advocate. Suppose a man is indebted to the extent of 10,000 rupees. Suppose he has got properties to the value of 10,000 rupees and it is sent to the Land Mortgage Bank for valuation and the amount they are prepared to pay is 5,000 rupees. Out of that a secured creditor is to get 2500 rupees. In that case the balance of 2500 rupees will be distributed amongst the creditors to whom Rs. 7,500 is to be given.

Mr. Deputy President.—The secured creditors go.

Mr. K. Achyuta Menon *(Diwan Peishkar).*— Read clause (4). Clause (3) says they live and clause (4) says they die.

Mr. C. R. Iyyunni *(Trichur South).*— As far as I have understood it, a person who is indebted to the extent of Rs. 10,000 even if he possesses properties to that same extent, he need pay only 5000 rupees. The Debt Conciliation Act gives him this full Rs. 10,000. Now according to the amendment it would appear that all the creditors put together will get only Rs. 5,000. So what the Debt Conciliation Act has given to the creditors is curtailed to this extent.

Then the second point is this. Section 14 says "if the creditors to whom more than fifty percent of the total amount of the debtor's debts is owing". That has been changed into "If fifty percent of the creditors agree that the debts of the debtor may be scaled down". These two things make considerable difference. In the one case, fifty per cent of the debtors' debts, they must come to an agreement. In the other case the amount may be so small that it may form only 1/10 or 1/16.

Mr. A. V. Moothedan *(Chalakkudi).*— That can be amended. At this stage the principle of the Bill is discussed. The object with which this amending Act is brought is clear from the Statement of Objects and Reasons.

Mr. C. R. Iyyunni *(Trichur South).*—The principle of the Debt Conciliation Act is taken away by the sections incorporated in this amending Bill.

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* Speech not corrected by the Hon'ble Member.

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* **Mr. A. Sivarama Menon** *(Mulakkunnathukavu).*— While I entirely appreciate the motive with which this Bill has been brought forward by the Hon'ble Member I must confess that many have not understood the details of it. The idea is to get the debt of a particular debtor conciliated to an amount for which there will be an outside agency to finance. In this case the Land Mortgage Bank is taken as the financing agency. The further proposal is the moment an application is received by the Board the first step should be to send the application to the financing agency to find out what is the maximum fund that is available for conciliation. I have no doubt that there would be considerable help from the Bank because it is the every day business of that Bank to find out what is the maximum amount that would be advanced by way of loans on the security of properties. If there is a property worth Rs. 10,000, 50 to 60 percent of that value is generally advanced as loan, provided the repaying capacity of the borrower is also satisfied. It is not only the value of the property given as security, that weighs with the Land Mortgage Bank. That is one of the most important considerations. But there is also the re-paying capacity of the borrower which is equally important, because money is advanced with a view to collect it back in instalments. Suppose a person owning a property worth Rs. 10,000 applies for a loan of Rs. 5000. He must be in a position to pay back year after year something like Rs. 500 into the Bank so that he may be free from debts at the end of 20 years. He has lands worth Rs. 10,000 and he will be in a position to pay the lending authority Rs. 500 so that the debt may be liquidated in 10 years. If the applicant is not in a position to repay, then that weighs considerably with the Bank and the application is not allowed to the fullest extent. If the repaying capacity is only Rs. 300 a year, the amount of loan to be advanced will be reduced proportionately. What I therefore want to suggest is, the mere valuation by the Bank does not give us a true criterion with regard to the amount that is to be advanced on the security of property. I will assume now that we will go by this valuation test. Suppose the Bank returns the petition saying we will be in a position to advance Rs. 5,000, that is to say, the maximum. Let us further assume for illustration that the applicant has Rs. 10,000 worth of property and Rs. 10,000 debt. There may be secured creditors and there may be un-secured creditors. If the secured creditor has to get Rs. 5,000 then the whole Rs. 5,000 will have to go to the secured creditor, because, according

* Speech not corrected by the Hon'ble Member.

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to the Land Mortgage Bank rule, it is fundamental that they should have the first mortgage. They are not permitted by the rules to advance any amount on anything other than the first mortgage. So, the application before the Board has got secured debt to the extent of the maximum amount the Land Mortgage Bank can advance, then practical difficulty in the working of this Bill will arise. I am sure that is not the way in which the Hon'ble mover wants to work out the Debt Conciliation Act. I do not believe that is the principle on which the Debt Conciliation Act is sought to be worked. And it is a very important provision. I will go to another provision and it is a very important provision. The Bill further says as soon as you get report from the Land Mortgage Bank, the next step you have to do is to consult 50 per cent of the creditors. Now you have to begin the case of Rs. 10,000 liability. It may be that 50 per cent of the creditors may not be creditors to the extent of Rs. 5,000. It may be 7,000, it may be 2,000.

I am only suggesting the difficulty under this Bill. I am not going into details. Looking from the principle of practicability, I am suggesting this. Clause 2 says that we should get the report from the Land Mortgage Bank and if 50 per cent of the creditors agree, then the debts of the debtor may be scaled down to such extent, etc. Here, the assumption may be that their decision will practically be in accordance with the report of the Land Mortgage Bank. What I submit is we cannot proceed on such assumptions. 50 per cent of the creditors may not be creditors to the exact amount which the Land Mortgage Bank gives. It may be the amount due to 50 per cent of the creditors, may be more or less, and if it is less than what the Land Mortgage Bank offers to advance and if it is Rs. 2,000, then the provision goes even against the Debt Conciliation Act. Therefore an amending Bill cannot go against the fundamental principles of the Act.

Now let us look at it from another standpoint. The Land Mortgage Bank is not an institution which can be controlled in the way in which the Hon'ble mover of this Bill wants. I mean, it is a society, a co-operative society of shareholders subject to the superintendence of Government, and while it receives substantial aid from the Government, it does not mean that it is a Government institution at all. It is an institution where you have got share-holders and the share-holders' duties and responsibilities could not be controlled by means of a legislation of the kind we are having before us. Of course it may be that by amending the Co-operative Societies Act you

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may be able to control the working of the co-operative institutions in the State. But by any attempt to amend the Debt Conciliation Act, my submission is, you cannot control a non-official institution working under another Act, the Co-operative Societies Act. So I would suggest to the Hon'ble the mover that if his desire is to link the Debt Conciliation Board with the Land Mortgage Bank, his attempt should be not to amend the Debt Conciliation Act, but to try and amend the Co-operative Societies act.

Mr. A. V. Moothedan *(Chalakkudi)*. — What about the Revenue Recovery Act? If you want to sell the property you have to apply the provisions of the Revenue Recovery Act.

Mr. A. Sivarama Menon *(Mulakunnathukavu)*.— It is an Act complete in itself. It has got a section which gives powers to the Board to make rules subject to the sanction of the Registrar who is an ex-officio member of the Board and also a trustee. That is different from saying you can interfere with the working of that Bank by amending an Act which has nothing to do with the Land Mortgage Bank. I say the Co-operative Societies Act has everything to do with it. You can make appropriate amendment in that Act and thereby attempt to modify the working of the Land Mortgage Bank which is also a co-operative society. An opinion is expressed by the Hon'ble Member that the Land Mortgage Bank, in sending its report also takes a humane view of the situation by trying to recommend 70 or 75 per cent of the value of the property. Hon'ble Members will remember we had a very long debate during the previous session on this very question whether it is desirable to fix the maximum or rather the minimum and to compel the Land Mortgage Bank to advance loans up to 85 per cent of the mortgaged property. The Hon'ble Members will remember the very cogent reasons for which this House did not accept their recommendation. And remembering as the Hon'ble Members do, the valid reasons for not recommending such a course, I think, we should not at this stage try to interfere with the existing practice of the Land Mortgage Bank. Since we are now on the question of the principle of this amending Bill, I do not propose to go into details. The chief difficulty I feel is, as mentioned by the Hon'ble the Law Member in his reply, that we cannot mix up compulsory legislation with enabling legislation.

Mr. K. M. Ibrahim *(Cranganur)*.—There is already compulsion in this Act.

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Mr. A. Sivarama Menon *(Mulakunnathukavu)*—Compulsion there is from a certain standpoint. But the moment you pass this legislation you must see what the practical result is going to be. What is the real benefit you get by simply getting the report from the Land Mortgage Bank? Are you by means of this compelling the Bank to advance the money. My submission is that even if you pass this legislation in the terms in which the Hon'ble mover has brought it, it has no compulsion. It is no sanction to the Land Mortgage Bank to advance the amount as per that report.

Mr. A. V. Moothedan *(Chalakkudi)*.—Why that institution is existing?

Mr. A. Sivarama Menon *(Mulakunnathukavu)*.—That institution exists to enable needy people to help themselves to free themselves of their liabilities. That institution exists to enable people who are burdened with debts to get the necessary amount consistent with the security that they can offer and consistent with the repaying capacity of borrowers. Moreover as it has been brought out clearly several times any one who has got more than Rs. 5,000 debt, he has no hope whatsoever, no locus standi, before the Land Mortgage Bank. I do not think that there is any such restriction with regard to applicants going before the Debt Conciliation Board. I do not think that anybody who has to pay more than Rs. 5000 cannot go before the Debt Conciliation Board. That is the first fundamental principle. The Land Mortgage Bank gets the report from its own subordinate officer, the inspector. That report is scrutinised by the Superviser and again by the Advisory Board who consist of the gentlemen of the locality and the final report of valuation goes to the Board and the Board is bound by that report. There may be considerations, there may be valid reasons. There have been several occasions, though not, very numerous, when the amount recommended by the various boards, the Board has not been able to sanction the maximum amount recommended by the local boards. Therefore what I suggest is you find changes are necessary and you cannot amend the Land Mortgage Bank Act by seeking to amend the Debt Conciliation Act. You have to do it in some other way. It is, I am afraid, on a mis-apprehension as to the scope or the capacity of the Land Mortgage Bank, to go to the rescue of the indebted classes. My only doubt is whether the Hon'ble mover who has got a very intimate knowledge of the working of the Debt Conciliation Board, whether he has understood the intricacies of the Land Mortgage Bank and really understood

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the limitations under which that works. If that is so, the very first thing that he can know is that the Land Mortgage Bank would not give more than Rs. 5,000. All cases that go above Rs. 5,000, is taken out of the Debt Conciliation Board by this amendment. If that be his idea, certainly this House will not support him. The Debt Conciliation Board is intended for a larger class of debtors, and if in its working we find difficulties in raising funds, we have to find ways and means in other quarters. A reference has been made by the Hon'ble the Law Member to the Nawanagar scheme. What was done in Nawanagar? Whatever be the debt, the Government undertake to advance the amount there.

I am not called upon to suggest anything. In Bhavanagar, the moment the conciliation was effected, the Government pays.

While I see this difficulty, if in spite of the difficulties the House is in a position to pass this Bill and render help to the debtors I will be most satisfied.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Why not suggest methods to get over the difficulties? You have ripe experience.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—My submission to the Hon'ble mover is, after having brought to the notice of the House, the urgent need of a financing agency for the proper working of the Debt Conciliation Board, I think we may leave it to the Government to make proper suggestions. If the Government do not do it there is nothing to prevent anyone of us to bring forward another Bill. This Bill, which we take up practically on the last day of this Council, it will be too much to suppose that we will be able to finish off this. Therefore I think, the real object of introducing this measure is more or less to convey our views on the urgent need of a financing agency. We will not even make a prayer that the standing orders may be suspended to consider a complicated measure like this. Therefore the best thing to do is to leave it there.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—The best thing is to introduce it this session and leave it there and then to continue the discussion in the next Council.

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—Personally speaking I am not satisfied with the Bill. I would

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rather wait for another 3 or 4 months and in the mean time bring in another Bill which will be some sort of a real effective Bill to find a real financing agency and to see that the debtors' debts are paid and they are given some relief. Let it be understood that I am not behind the Hon'ble mover of this Bill in finding out a solution in regard to this. (*Hear, hear.*) If I raise more difficulties, it is with the idea of coming forward with suggestions or point out a measure of relief. I must be pardoned by my Hon'ble friend if on speaking on this particular amendment, I find more difficulties than possible methods of attaining the actual results of this Act. While I again thank the Hon'ble mover for bringing this very important subject to the notice of the House, and particularly to the notice of the Members in the Treasury Benches, I hope that he will not try to push through his Bill now, but will come forward with a more comprehensive and a more effective Bill at the earliest opportunity.

* മിസ്റ്റർ കെ. എം. ഇബ്രാഹിം (*Cranganur*).— സർ, ഈ ബില്ലിന്റെ പ്രധാന തത്വത്തെക്കുറിച്ച് ചിന്തിക്കേണ്ട ഒരു അവസരം മാത്രമാണിത്. അല്ലാതെ ഇതിൽ വരുന്ന നിസ്സാരങ്ങളായ വിഷമങ്ങളെക്കുറിച്ചു ഈ അവസരത്തിൽ ചിന്തിക്കേണ്ട ആവശ്യമില്ലെന്നാണ് എന്റെ വിനീതമായ അഭിപ്രായം. രൂപപ്രകാരം കൺസിഡറേഷൻ സ്റ്റേജിൽ ബില്ലിന്റെ പ്രവർത്തനത്തിന് അത്യാവശ്യമായ വല്ല വ്യത്യസ്ത തകളും കൊണ്ടുവരുന്നതിനു വിരോധമില്ല. ഈ ബില്ലിലെ അടിസ്ഥാനമായിരിക്കുന്ന തത്വം ഈ നിയമസഭക്കു സ്വീകാര്യമാണോ അല്ലയോ എന്നാണു ഞാൻ ചോദിക്കുന്നത്. ഈ ബിൽ സ്വീകരിക്കാവുന്നതാണെന്ന് ഈ നിയമസഭ ഇതിനു മുമ്പിലത്തെ വോട്ടുകൊണ്ടു പ്രത്യക്ഷപ്പെടുത്തിക്കഴിഞ്ഞിട്ടുണ്ട്. ഇതിൽ അടങ്ങിയിരിക്കുന്ന തത്വം ഒരു റസല്യൂഷൻ വഴിയായി ഈ നിയമസഭയിൽ ഈ ബഹുമാനപ്പെട്ട മെമ്പർതന്നെ കൊണ്ടുവന്ന് ഭൂരിപക്ഷമുള്ള ഈ നിയമസഭ അതിനെ സ്വീകരിച്ചതിനുശേഷം ഈ നിയമത്തെ സംബന്ധിച്ച് ഒരു വാദപ്രതിവാദം ചെയ്യേണ്ട ആവശ്യംതന്നെയില്ല. ഈ നിയമസഭ ആദ്യം അനുമതി കൊടുത്തു സ്വീകരിച്ച ഒരു തത്വത്തിന്മേൽ വീണ്ടും വാദപ്രതിവാദത്തിന് അനുമതി കിട്ടണമെന്നുള്ള വാദത്തിനുതന്നെ യാതൊരു പ്രസക്തിയുമില്ല. ഈ ബില്ലിന്റെ തത്വം ഈ നിയമസഭയിൽ പാസ്സാക്കിക്കഴിഞ്ഞതിനുശേഷം അതിലെ തത്വത്തെക്കുറിച്ച് ആലോചിക്കേണ്ട ഘട്ടത്തിൽ അനാവശ്യമായ യാതൊരു വിമർശനങ്ങൾക്കും അവസരം കൊടുക്കേണ്ട ആവശ്യമില്ല. അതിപ്രധാനമായി നടപ്പിൽ വരുത്തേണ്ട ചില ചില്ലറ പരിഷ്കാരങ്ങളും വ്യത്യാസങ്ങളും ഈ നിയമത്തിൽ വരുത്തേണ്ട ആവശ്യമുണ്ടെങ്കിൽ ഞാൻ നേരത്തെ ബഹുമാനപ്പെട്ട സഭയെ ബോധിപ്പിച്ച

* Speech not corrected by the Hon'ble Member.

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തുപോലെ കൺസിഡറേഷൻ സ്റ്റേജിൽ ധാരാളമായി ചെയ്യാവുന്നതാണ്.

സർ, എനിക്ക് ഒരു സംഗതി ബഹുമാനപ്പെട്ട ഗവർമ്മെൻറ് മെമ്പർമാരെ സവിനയം മനസ്സിലാക്കേണ്ടതുണ്ട്. എല്ലാറ്റിലും ഉപശാന്തിയായി വരാൻപോകുന്ന ഒരു മിനിസ്റ്ററെക്കുറിച്ചുമാത്രം പെരുമ്പറയടിച്ചതുകൊണ്ട് ഒരു പരിഷ്കൃത ഭരണത്തിൻെറ സ്ഥാനത്തിലേയ്ക്ക് നാം എത്തുന്നില്ല. പ്രാദേശിക സ്വയംഭരണത്തിൽ നമുക്കുള്ള അവശതകൊണ്ടാണ് ഫെഡറേഷനിൽ ചേരുവാൻ സാധിക്കാത്തത്. നാട്ടരാജ്യക്കാർ ഫെഡറേഷനിൽ ചേരേണ്ട ആവശ്യമില്ലെന്നാണ് പൊതുവെയുള്ള പ്രശ്നം. കർഷകന്മാരെ സംബന്ധിച്ചും തൊഴിലാളികളെ സംബന്ധിച്ചും വേണ്ടത്ര രക്ഷകൾ ചെയ്യാതിരുന്നാൽ അതുതന്നെ ഫെഡറേഷനിൽ നാട്ടരാജ്യങ്ങൾക്കുള്ള യോഗ്യതക്കു തടസ്ഥമായിരിക്കുന്നതാണ്. കർഷകന്മാർക്കും തൊഴിലാളികൾക്കും ചെയ്തുകൊടുക്കേണ്ടതായ രക്ഷകളെക്കുറിച്ച് ഇപ്പോൾ ചിന്തിക്കേണ്ട ആവശ്യമില്ല. മദിരാശിയിൽ ചെയ്തിരിക്കുന്ന ഏറ്റവും വിപ്ലവകരമായ കർഷക രക്ഷയിലും എത്രയോ താഴ്ന്ന, പരിഷ്കാര കോണിയിൽ എത്രയോ മിതമായ, ആവശ്യത്തെ എതിർക്കുന്ന ഒരു ഭരണമാണ് നിലനിൽക്കുന്നതെങ്കിൽ പൊതുവിൽ ബ്രിട്ടീഷിൻഡ്യൻ സംസ്ഥാനങ്ങളുമായി സഹകരിക്കുവാൻ അർഹതയില്ലെന്നുള്ള വാദത്തിന്നു പ്രസക്തിയില്ലേ എന്നാണു ഞാൻ ചോദിക്കുന്നത്. ഈ വക വളരെ മിതവും പ്രയോഗികവും സുവ്യസ്പഷ്ടകാര്യം സിദ്ധിച്ചിട്ടുള്ളതുമായ തത്വങ്ങൾപോലും നടപ്പിൽ വരുത്തുന്നതിന് ഈ വക തത്വങ്ങളെ കേന്ദ്രീകരിച്ചിരിക്കുന്ന രാഷ്ട്രീയ സ്ഥാപനങ്ങളുടെ അനുയായികളെന്നു പറയുന്ന ക്രൂട്ടരിൽനിന്നും എതിരുണ്ടാകുന്നതായാൽ അതിനെ കേവലം ഒരു എതിരോട്ടക്കൂടി മാത്രമേ നോക്കുവാൻ സാധിക്കുകയുള്ളൂ.

ഇൻഡ്യൻ നാഷണൽ കോൺഗ്രസ്സിൻെറ പരിപാടിയിൽ എനിക്കു യാതൊന്നും ചെയ്യുവാൻ സാധിച്ചിട്ടില്ലെങ്കിലും അതിൻെറ ഒരു ഭക്തനാണു ഞാൻ. കഴിഞ്ഞ കോൺഗ്രസ്സ് സമ്മേളനത്തിൽവച്ച് ഇൻഡ്യൻ നാട്ടരാജ്യങ്ങളിൽ യാതൊരുവിധ കോൺഗ്രസ്സ് പ്രവർത്തനങ്ങളും ആവശ്യമില്ലെന്നു തീരുമാനിച്ചപ്പോൾ അതു ഒരുതരം ബുദ്ധിഭ്രമമാണെന്നാണു ഞാൻ ധരിച്ചതു്. ഇൻഡ്യൻ നാഷണൽ കോൺഗ്രസ്സിൻെറ നാട്ടരാജ്യങ്ങളിലെ അനുചരന്മാരെന്നും പ്രതിനിധികളെന്നും ആദർശകന്മാരെന്നും പറഞ്ഞു നടക്കുന്നവർ ചെയ്യുന്ന ഇത്തരം പ്രവൃത്തികൾ കണ്ടപ്പോൾ നാട്ടരാജ്യങ്ങളിൽ കോൺഗ്രസ്സിൻെറ പ്രവർത്തനം ആവശ്യമില്ലെന്നുള്ള തീരുമാനം എനിക്കു വളരെ കായ്മയായി തോന്നി. മഹാത്മാഗാന്ധി മുതലായവരുടെ ആദർശങ്ങളും പ്രസംഗിച്ച് ആളുകളെ കീശയിലാക്കി ആ ആദർശങ്ങളെ ഹിംസിച്ചു ശാപം വലിപ്പിക്കുന്ന തരത്തിലുള്ള പ്രവർത്തകന്മാരാണ് നാട്ടരാജ്യങ്ങളിലുള്ളതെന്നു മനസ്സിലാക്കിയതിൻെറ ഫലമാണ് നാട്ടരാജ്യങ്ങളിൽ കോൺഗ്രസ്സ് പ്രവർത്ത

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ധം ആവശ്യമില്ലെന്നു തീരുമാനിച്ചതു്. ഞാൻ പറയുന്നതു ഏറ്റവും പരിമിതമായ ഈ കർഷക സംരക്ഷണ ബില്ലിനെ ഈ നിയമസഭ സ്വീകരിക്കണമെന്നു മാത്രമാണു്.

Mr. A. V. Moothedan *(Chalakkudi)*.—Sir, at this stage the House has to consider only the main principles of the Bill. I am ready to admit that the Bill is not perfect; but it can be set aright by amendments later on. At this stage the only thing that we have to consider is whether the principle is acceptable namely to give relief to the debtors who have put in petitions to the Debt Conciliation Board by providing them with ready cash for the settlement of their debts. For that purpose, I have made a scheme whereby the Land Mortgage Bank may advance money. There is no compulsion at all. The principle is that the Land Mortgage Bank may be asked to advance money to the debtors. That money will be distributed among the creditors, and that only if 50 per cent of the creditors agree. Even now, in fact, by an elastic interpretation of the provisions of the Act and the rules thereunder, it will be possible to achieve these results without amending the Act. But during the last Karkadagam Session, it was pointed out that that law requires amendment for achieving this result. But till this time no amendment Bill was brought by the Government. I think this scheme they can readily accept. Now, they say, it is against the principle of the voluntary conciliation. I ask, is there not an element of compulsion in the Act itself. Otherwise what is the effect of issuing certificates. They do not understand what is going on in Madras. The Viceroy has given assent to a Bill which according to the Government Advocate here, is socialism pure and simple. There we find recently in a suit for Rs. 9,000 the creditor was given only a decree for Rs. 1,900.

Mr. K. Achyuta Menon (*Diwan Peishkar*).—What do you say about a legislation which says you should not pay anything?

Mr. A. V. Moothedan *(Chalakkudi)*.—The main objection of the Law Member is that this Bill is against the principle of the Act. Is there no compulsion in the main Act? What is the provision in regard to the certificate? I can quote his own speech to show that there is an element of compulsion in our own Act. What is the effect of issuing certificate? Is it not compulsion? Therefore the Law Member's objection falls to the ground. It is stated that it is expropriatory. I shall take an actual illustration. A debtor has Rs. 10,000 worth of assets. He has debts also amounting to

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Rs. 10,000. There is a secured creditor for Rs. 2,500. The Bank is going to advance Rs. 5,000 or Rs. 6,000. How will the Board distribute? The Board will consider whether the debt is secured or unsecured. Then it will consider the priority. The creditor having the first-charge will get the lion's share and the unsecured creditors will be asked to forego more. In the case of the secured creditor mentioned in the illustration of the Hon'ble Member for Trichur South, I think he will be paid Rs. 2,300 instead of Rs. 2,500 and he will be asked to forego Rs. 200. He gets Rs. 2,300 in ready cash without going to court and without wasting time and energy in the court house and without any trouble. Is it not a good thing ?

Mr. Deputy President.—What about sub-clause (4) of the section?

Mr. A. V. Moothedan *(Chalakkudi).*—No secured creditor shall have priority to his debt over the Land Mortgage Bank. Suppose the secured creditor is not satisfied; what is the remedy? That is provided here. It is a very small punishment. He gets Rs. 2,300 instead of Rs. 2,500. For the sake of Rs. 200 will he go to a court of law? If he goes to a court of law, he gets a second charge for Rs. 200. And he won't get costs and he would not get interest more than 4 per cent. There is nothing very hard. This is the result of practical experience and not theory. If this suggestion is accepted, the Debt Conciliation Board will be more useful and they will settle more cases and there will be flow of credit and money will be changing hands. Is it very hard to ask a man under these circumstances to forego Rs. 200?

Mr. Deputy President.—What do you say regarding the objection raised by Mr. Sivarama Menon that not more than Rs. 5,000 can be advanced by Land Mortgage Bank?

Mr. A. V. Moothedan *(Chalakkudi).*—This Rs. 5,000 limit is made by a bye-law of the bank which we created. If that is changed it will go. We created the Land Mortgage Bank. It is our child. Sub-clause 5 provides for this.

Mr. K. Achyuta Menon *(Diwan Peishkar).*—It cannot be more than Rs. 5,000. Please read the proviso.

Mr. A. V. Moothedan *(Chalakkudi).*—Sir, when the law is changed, they will get a copy of the Act. As far as the details, they cannot be discussed in this open House.

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Dr. A. R. Menon *(Pallippuram)*.—Up to Rs. 5,000 there is no trouble. Only beyond that there is trouble. Cannot a man now get money by going to the Land Mortgage Bank?

Mr. K. Achyuta Menon *(Diwan Peishkar)*.—He must be a share-holder. But this legislation does not require that he should be a share-holder.

Mr. A. V. Moothedan *(Chalakkudi)*.—These details cannot be discussed in the open House. When a non-official Member brings an amending Bill all these difficulties arise. I say the Government is a very callous Government.

Dr. A. R. Menon *(Pallippuram)*.—What is the objection in accepting the principle? That is what we want.

Mr. Deputy President.—The motion before the House is that the Cochin Debt Conciliation Act Amendment Bill be read in Council.

Motion put and negatived.

Mr. A. V. Moothedan *(Chalakkudi)*.—A poll, Sir.

Poll.

Ayes.	Noes.
1. Mr. K. Ayyappan.	1. Mrs. G. M. D'Souza Williams.
2. ,, T. K. Nayar.	2. Mr. Shabdai S. Koder.
3. ,, A. Eachara Menon.	3. ,, C. S. Viswanatha Ayyar.
4. ,, V. K. Krishnankutty.	4. ,, T. S. Balarama Ayyar.
5. ,, K. M. Kunhi Moideen.	5. ,, E. Ikkanda Warriar.
6. ,, P. Govinda Menon.	6. ,, P. C. Varkey.
7. ,, K. M. Ibrahim.	7. ,, K. P. Kannan Nayar.
8. ,, K. S. Panikkar.	8. ,, K. Achyuta Menon.
9. ,, T. A. Ramachandra Ayyar.	9. ,, P. J. George.
10. ,, P. Kumaran Ezhuthassan.	10. Rama Varmha Tampuran.
11. Dr. A. R. Menon.	11. Mr. V. K. Aravindaksha Menon.
12. Mr. A. V. Moothedan.	12. Rao Sahib I. N. Menon.
13. ,, A. Narayana Menon.	13. Mr. Thomas Manjuran.
14. ,, K. Kunhirama Menon.	14. Rao Sahib M. Narayana Menon.
15. ,, M. A. Sankunni.	15. Mr. K. M. Subramania Ayyar.
16. Mrs. Meenakshi N. Menon.	16. ,, K. Narayana Menon.
	17. ,, K. Krishna Warriar.
	18. Dr. D. Raghavendra Rao.
	19. Captain A. R. Puduval.
	20. Mr. T. Narayana Menon.

Motion was therefore lost.

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